



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8  
999 18<sup>TH</sup> STREET - SUITE 300  
DENVER, CO 80202-2466  
Phone 800-227-8917  
<http://www.epa.gov/region08>

January 14, 2004

Ref: 8ENF-W

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Evanston Lodge No. 2588,  
Benevolent and Protective Order of  
Elks of the USA  
c/o Timothy O. Beppler  
Registered Agent  
937 Main Street  
Evanston, Wyoming 82930

Re: Administrative Order  
Docket No. **SDWA-08-2004-0011**  
PWS ID #5601147

Dear Mr. Beppler:

Enclosed you will find an Administrative Order (Order), which the Environmental Protection Agency (EPA) has issued under the authority of the Safe Drinking Water Act (SDWA), 42 U.S.C. Section 300f et seq., and its implementing regulations. Among other things, the Administrative Order finds that Evanston Lodge No. 2588, Benevolent and Protective Order of Elks of the USA Water System (System) is a public water supplier as defined by the SDWA and that the owner of the system has violated the National Primary Drinking Water Regulations (NPDWRs) at 40 C.F.R. §§ 141.63(a)(2), 141.21(b), 141.201, 141.21(g)(1), 141.21(g)(2), 141.31(b) for: exceedance of the Maximum Contaminant Level (MCL) for total coliform bacteria; failure to collect a set of repeat samples following a total coliform positive routine sample; failure to provide public notice of the violations; failure to report total coliform bacteria MCL violations to EPA by the end of the next business day after discovering the violation; failure to report total coliform monitoring violations to EPA within 10 days of discovering the violation; and failure to report NPDWR violations to EPA within 48 hours.

If the System owner complies with the enclosed Order for a period of at least twelve months, EPA may choose to close the



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Order. Violating the enclosed Order may lead to (1) a penalty of up to \$27,500 per day of violation of the Order, (2) a separate such penalty for violating the regulations themselves, and/or (3) a court injunction ordering the system owner to comply.

Also enclosed is a Small Business Regulatory Enforcement and Fairness Act (SBREFA) Section 22 information sheet. The SBREFA sheet notifies small businesses of their right to comment on regulatory enforcement activities, and provides information on compliance assistance. Dissemination of this information sheet does not constitute an admission or determination by EPA that the business, organization or governmental jurisdiction is a small entity as defined by SBREFA.

Please note that the effective date of the enclosed Order is the date of issuance. Within the next 10 days, please provide EPA with any new information that you believe the Agency is not aware of relating to the alleged violations in the Order. The information may be sent to Melanie Wasco at the address on the letterhead, include the mailcode 8ENF-W, or you may call Ms. Wasco at (800) 227-8917, extension 6540, or (303) 312-6540. If you wish to have an informal conference with EPA, you may also call or write Ms. Wasco. If you are represented by an attorney or have legal questions, please call Michelle Jalazo at the above 800 number, extension 6921, or at (303) 312-6921.

We urge your prompt attention to this matter.

Sincerely,

**SIGNED**

Diane L. Sipe, Director  
Technical Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

Enclosures

Order  
Public Notice template  
SBREFA

cc: Larry Robinson, WY DEQ  
Dr. Karl Musgrave, WDH  
Brad Van Syoc, President, Evanston Elks Lodge No. 2588  
Lynn Nelson, Manager, Evanston Elks Lodge No. 2588



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

999 18th STREET - SUITE 500  
DENVER, COLORADO 80202-2466

January 14, 2004

Ref: 8ENF-W

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Uinta County Commissioners  
c/o Leonard Hysell, Chair  
225 9<sup>th</sup> Street  
Evanston, WY 82931

Re: Notice of Safe Drinking Water Act  
Enforcement Action against Evanston  
Lodge No. 2588, Benevolent and  
Protective Order of Elks of the USA  
PWS ID #5601147

Dear County Commissioners:

Pursuant to Section 1414(a)(2)(B) of the 1996 amendments to the Safe Drinking Water Act (SDWA), the Environmental Protection Agency (EPA) is required to notify an appropriate locally elected official of any action taken in a State that does not have primary enforcement authority for public water systems. The State of Wyoming does not have primary enforcement authority for public water systems under the SDWA.

An Administrative Order is being issued under Section 1414 of the SDWA to Evanston Lodge No. 2588, Benevolent and Protective Order of Elks of the USA, Evanston, Wyoming. This Order requires that the public water system take measures to return to compliance with the SDWA and the National Primary Drinking Water Regulations (NPDWRs). The System is in violation of 40 C.F.R. §§ 141.63(a)(2), 141.21(b), 141.201, 141.21(g)(1), 141.21(g)(2), 141.31(b) for: exceedance of the Maximum Contaminant Level (MCL) for total coliform bacteria; failure to collect a set of repeat samples following a total coliform positive routine sample; failure to provide public notice of the violations; failure to report total coliform bacteria MCL violations to EPA by the end of the next business day after discovering the violation; failure to report total coliform monitoring violations to EPA within 10 days of discovering the violation; and failure to report NPDWR violations to EPA within 48 hours.



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A copy of the Order is enclosed for your information. The Order does not require any response or action by the County Commission. If you have any questions regarding this Order, please contact Melanie Wasco at (303) 312-6540.

Sincerely,

**SIGNED**

Diane L. Sipe, Director  
Technical Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

Enclosure



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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

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IN THE MATTER OF )  
 )  
 Evanston Lodge No. 2588, )  
 Benevolent and Protective Order of )  
 Elks of the USA )  
 Evanston, Wyoming )  
 PWS ID# WY5601147 )  
 )  
 Respondent )  
 ) ADMINISTRATIVE ORDER  
 Proceedings under Section 1414(g) )  
 of the Safe Drinking Water Act, )  
 42 U.S.C. § 300g-3(g) ) Docket No. **SDWA-08-2004-0011**  
 )

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The following Findings are made and Order issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by Section 1414(g) of the Safe Drinking Water Act (the Act), 42 U.S.C. § 300g-3(g) and its implementing regulations, as properly delegated to the Supervisors of the Technical and Legal Enforcement Programs of the Office of Enforcement, Compliance and Environmental Justice, EPA Region 8.

FINDINGS

1. Evanston Lodge No. 2588, Benevolent and Protective Order of the Elks of the United States of America ("Respondent") is a corporation under the laws of the state of Wyoming as of December 1979 and therefore a "person" within the meaning of 40 C.F.R. § 141.2.
2. Respondent owns and/or operates a system, the Evanston Lodge

- No. 2588 Water System (the "System"), located in Uinta County, Wyoming for the provision to the public of piped water for human consumption.
3. The Evanston Lodge No. 2588 Water System has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year and is therefore a "public water system" within the meaning of Section 1401(4) of the Act, 42 U.S.C. § 300f(4), and a "non-community water system" within the meaning of 40 C.F.R. § 141.2.
  4. Respondent owns and/or operates a public water system and is therefore a "supplier of water" within the meaning of Section 1401(5) of the Act, 42 U.S.C. § 300f(5) and 40 C.F.R. § 141.2. Respondent is therefore subject to the requirements of Part B of the Act, 42 U.S.C. § 300g, and its implementing regulations, 40 C.F.R. Part 141.
  5. According to a June 5, 2002 sanitary survey by an agent for EPA, Respondent operates a system that is supplied solely by a ground water source consisting of one well. The system serves approximately 25 persons per day through one service connection, and is operational year-round.

FINDINGS OF VIOLATION



I.

1. 40 C.F.R. § 141.21 requires public water systems to monitor the water at least once per quarter to determine compliance with the Maximum Contaminant Level (MCL) for total coliform bacteria as stated in 40 C.F.R. § 141.63.
2. 40 C.F.R. § 141.63(a) (2) imposes and defines the MCL for total coliform bacteria, applicable to public water systems collecting fewer than 40 samples per month, as no more than one sample collected during the month may be positive for total coliform bacteria.
3. Monitoring results submitted by Respondent for the public water system during May 2001 and October 2002 exceeded the MCL for total coliform bacteria, in violation of 40 C.F.R. § 141.63(a) (2).

II.

1. 40 C.F.R. § 141.21(b) requires public water systems to collect a set of four repeat samples within 24 hours of being notified of a total coliform positive routine sample.
2. Respondent failed to collect a set of four repeat samples after the September 2002 total coliform positive routine samples, in violation of 40 C.F.R. § 141.21(b).



III.

1. 40 C.F.R. § 141.201 requires owners and/or operators of public water systems to notify the public of any national primary drinking water regulation ("NPDWR") violations, including violations of the maximum contaminant level ("MCL"), maximum residual disinfection level ("MRDL"), treatment technique ("TT"), monitoring requirements, and testing procedures in 40 C.F.R. Part 141.
2. Respondent provided public notice for the May 2001 and October 2002 MCL violation in Section I, but has not provided public notice of the additional noncompliance detailed in Section II above, in violation of 40 C.F.R. § 141.201.

IV.

1. 40 C.F.R. § 141.21(g)(1) requires a public water system that has exceeded the MCL for total coliforms in 40 C.F.R. § 141.63 to report the violation to EPA no later than the end of the next business day after it learns of the violation.
2. Respondent failed to report to EPA the May 2001 total coliform MCL violation detailed in Section I above, in violation of 40 C.F.R. § 141.21(g)(1).



V.

1. 40 C.F.R. § 141.21(g) (2) requires public water systems that have failed to comply with a coliform monitoring requirement under 40 C.F.R. § 141.21 to report the violation to EPA within ten days after the system discovers the violation.
2. Respondent failed to report to EPA instances of noncompliance detailed in Section II above, in violation of 40 C.F.R. § 141.21(g) (2).

VI.

1. 40 C.F.R. § 141.31(b) requires public water systems to report any failure to comply with any National Primary Drinking Water Regulation (40 C.F.R. Part 141) to EPA within 48 hours.
2. Respondent failed to report to EPA instances of noncompliance detailed in Section III above, in violation of 40 C.F.R. § 141.31(b).

ORDER

Based on the foregoing Findings, and pursuant to Section 1414(g) of the Act, IT IS ORDERED:

1. Within 30 days of the effective date of this Order, Respondent shall comply with the requirement of 40 C.F.R. § 141.21(a) to perform quarterly bacteriological monitoring in compliance with the MCLs as stated in 40 C.F.R. § 141.63.



Respondent shall report analytical results to EPA within the first 10 days of the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).

2. If the System has a total coliform MCL violation within twelve months of the effective date of this Order, Respondent shall submit to EPA detailed plans for bringing Respondent's public water system into compliance with the MCL for coliform bacteria at 40 C.F.R. § 141.63. The plans shall include proposed system modifications, and a schedule for construction of the project and compliance with the MCL for coliform bacteria. The proposed schedule shall include specific milestone dates, a final compliance date and shall be submitted to EPA and the Wyoming Department of Environmental Quality for approval. The plans must be approved by EPA and the Wyoming Department of Environmental Quality before construction can commence.
3. The schedule for implementing and completing improvements will be incorporated into this Order upon written approval by EPA.
4. Upon the effective date of this Order, Respondent shall comply with all repeat sampling requirements specified in 40 C.F.R. § 141.21(b). This requires that Respondent take no



fewer than four repeat samples within 24 hours of being notified of a total coliform positive routine sample. Each repeat sample is to be analyzed for total coliform bacteria. At least one repeat sample must be taken from each of the following: a) the tap where the original total coliform positive sample was taken, b) from within five service connections upstream of the original total coliform positive tap, and c) from within five service connections downstream from the original total coliform positive tap. The fourth repeat sample is to be taken anywhere within five service connections upstream or downstream of the original total coliform positive tap. Respondent shall report analytical results to EPA within the first 10 days following the end of the monitoring period, as required by 40 C.F.R.

§ 141.31(a).

5. No later than 30 days from the effective date of this Order, Respondent shall provide a notice to the public of the violation listed in Section II in the Findings of Violation of this Order, to return to compliance with 40 C.F.R. §§ 141.201, 141.203, and 141.205. This notice shall be given by (1) posting the notice in conspicuous locations throughout the distribution system frequented by persons served by the System OR (2) by mail or direct delivery to each customer



- and service connection; AND (3) any other method reasonably calculated to reach other persons served by the System if they would not normally be reached by the notice required above, such as publication in a local newspaper or newsletter distributed to customers; use of E-mail to notify employees or students; or delivery of multiple copies in central locations. If the public notice is posted, the notice must remain in place for as long as the violation or situation persists, but for no less than seven days. The public water system must repeat the notice every three months as long as the violation or situation persists. Upon the effective date of this Order, Respondent shall comply with the public notification requirements at 40 C.F.R. § 141.201 et seq. following any future NPDWR violation. Respondent shall submit a copy of the public notice to EPA within 10 days of completion of the public notice, as required by 40 C.F.R. § 141.31(d).
6. Upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.21(g)(1) by reporting any total coliform MCL violation under 40 C.F.R. § 141.63 to EPA no later than the end of the next business day after Respondent learns of the violation.
  7. Upon the effective date of this Order, Respondent shall



- comply with 40 C.F.R. § 141.21(g)(2) by reporting any failure to comply with coliform monitoring requirements under 40 C.F.R. § 141.21 to EPA within 10 days after the system discovers the violation.
8. Except where a different reporting period is specified in paragraphs 6 and 7 above, upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.31(b) by reporting any failure to comply with any National Primary Drinking Water Regulation (40 C.F.R. Part 141) to EPA within 48 hours.
  9. Reporting requirements specified in this Order shall be provided by certified mail to:

Melanie Wasco  
U. S. EPA Region 8 (8ENF-W)  
999 18th Street, Suite 300  
Denver, Colorado 80202-2466

GENERAL PROVISIONS

1. This Order does not constitute a waiver, suspension, or modification of the requirements of 40 C.F.R. § 141.1 et seq., or the Safe Drinking Water Act, which remain in full force and effect. Issuance of this Order is not an election by EPA to forgo any civil or criminal action otherwise



authorized under the Act.

2. Violation of any term of this Order instituted under Section 1414(g) (3) (A) of the Act, 42 U.S.C. § 300g-3(g) (3) (A), may subject the Respondent to an administrative civil penalty of up to \$25,000 per day of violation under Section 1414(g) (3) (B) of the Act, 42 U.S.C. § 300g-3(g) (3) (B), or a civil penalty of not more than \$27,500 per day of violation assessed by an appropriate U.S. District Court under Section 1414(g) (3) (C) of the Act, 42 U.S.C. § 300g-3(g) (3) (C).
3. Violation of any requirement of the SDWA or its implementing regulations instituted under Section 1414(b) of the Act, 42 U.S.C. § 300g-3(b), may subject Respondent to a civil penalty of not more than \$27,500 per day of violation assessed by an appropriate U.S. District Court under Section 1414(b) of the Act, 42 U.S.C. § 300g-3(b).
4. The effective date of this Order shall be the date of issuance of this Order.



Issued this 14<sup>th</sup> day of January, 2004.

**David J. Janik**

Michael T. Risner, Director  
David J. Janik, Supervisory Attorney  
Legal Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

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**SIGNED**

Diane L. Sipe, Director  
Technical Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

**IF YOU WOULD LIKE COPIES OF THE ATTACHMENTS, PLEASE CONTACT THE  
REGIONAL HEARING CLERK.**

**THIS DOCUMENT WAS FILED IN THE RHC'S OFFICE ON JANUARY 14, 2004.**

